



# **FREDERICK COUNTY PLANNING COMMISSION**

**November 13, 2013**

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**TITLE:** **Weller Estates, Lots 1C and 1G**

**FILE NUMBER:** **S-250B, AP 2982 (APFO 12804, FRO 13219 & 13774)**

**REQUEST:** **Combined Preliminary/Final Plat Approval**

The Applicant is requesting approval to resubdivide Lot 1C into two lots.

**PROJECT INFORMATION:**

**ADDRESS/LOCATION:** Located at the terminus of Iris Court, off Weller Road and approximately 600 feet east of Green Valley Road.  
**TAX MAP/PARCEL:** Map 88, Parcel 170  
**COMP. PLAN:** Rural Residential  
**ZONING:** R-1 Residential  
**PLANNING REGION:** Urbana  
**WATER/SEWER:** No Planned Service

**APPLICANT/REPRESENTATIVES:**

**APPLICANT:** Michael and Tammy Schwartzbeck  
**OWNER:** Michael and Tammy Schwartzbeck  
**SURVEYOR/ENGINEER:** Goode Surveys  
**ARCHITECT:** N/A  
**ATTORNEY:** N/A

**STAFF:** Mike Wilkins

**RECOMMENDATION:** Conditional Approval

**ATTACHMENTS:**

EXHIBIT 1- Combined Preliminary/Final Plat  
EXHIBIT 2- APFO Letter of Understanding

## STAFF REPORT

### ISSUE

The Applicant is requesting preliminary/final plat approval for 1 new residential single family lot on a 7.02 acre site.

### BACKGROUND

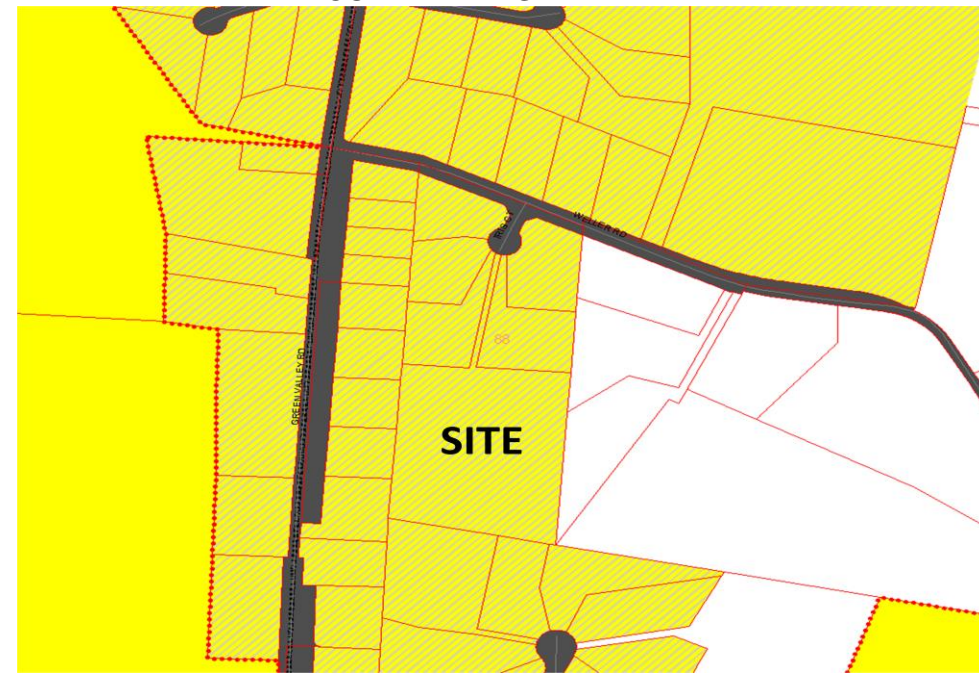
This property has been the subject of several previous subdivision applications since 1965. The Weller Estates subdivision was once part of a much larger tract of land, from which 32 lots have been created under several subdivision names. The Weller Estates subdivision has been created as follows;

- 1989- Lot 1 created (13.87 acres)
- 1990- Lot 1 resubdivided into Lots 1A, 1B, 1C, and 1D
- 2000- Lot 1C was resubdivided into Lot 1C, 1E, and 1F

Since more than 6 lots have been created from the original 1965 parcel, this application is considered a major subdivision, requiring FcPc review and approval.

The current application is being reviewed as a R-1 single family residential subdivision under §1-19-6.100 of the Zoning Ordinance.

#### COMPREHENSIVE PLAN



#### Existing Site Characteristics

The site consists of open yard area with an existing house and a detached garage. A pond and band of flooding soils is located in the middle of proposed Lot 1G. The site adjoins existing residential lots on all sides. The properties to the north, south, and west are zoned R-1, while the properties to the east are zoned Agricultural.

## DEVELOPMENT SITE AND SURROUNDINGS



## ANALYSIS

### A. ZONING ORDINANCE REQUIREMENTS

1. ***District Regulations, Design Requirements For Specific Districts §1-19-6.100: Residential One District (R1):*** Single family residential requirements: 40,000 square foot minimum lot size, 100 foot minimum lot width, 40 foot front setback, 30 foot rear yard setback, and 10 foot side yard setback, 30 foot maximum structure height.

The proposed lots meet the minimum 40,000 square foot (0.92 acres) lot size requirement. Lot 1C will be 3.15 acres and Lot 1G will be 3.86 acres. The required front, rear, and side setbacks are shown or noted on the plan and meet the Zoning Ordinance requirements.

### Zoning Ordinance Requirements Findings/Conclusions

The proposed subdivision will meet all Zoning Ordinance requirements.

### B. SUBDIVISION REGULATION REQUIREMENTS

1. ***Land Requirements §1-16-217 (A):*** The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the

**Weller Estates, Lots 1C and 1G**

November 13, 2013

Page 3 of 7

*proposed subdivision.*

The subject property reflects a Comprehensive Plan land use designation of Rural Residential. The proposed land use and subdivision design complies with the Comprehensive Plan and meets Zoning Ordinance requirements.

- 2. Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site design is limited by the existing pond and flooding soils, which leave only one potential building site and percolation area. The proposed lot will have a land use similar to the surrounding residential lots.

- 3. Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** *Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas. (b) If residential lots are proposed within "wet soils" then a geotechnical report is required to be submitted by a professional engineer registered in the State of Maryland. A note shall be placed on the plan that all construction shall be in conformance with the geotechnical report.*

Wet soils are located through the middle of the site (labeled as PoB on the plat). The existing garage on Lot 1G, which is likely the future house site, is located just beyond the 100 foot wet soils limit. However, should a house with a basement be proposed within 100 feet of the wet soils boundary, a soils delineation report will be required at the time of building permit application.

- 4. Road Access Requirements. Public Facilities §1-16-12 (B)(3)(b):** *For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.*

The lot will access Iris Court, which meets the minimum 20 foot wide paved road surface requirement. Iris Court provides access to Weller Road, which also meets the minimum 20 foot wide paved road surface requirement. Lot access will meet the Subdivision Regulations requirements.

- 5. Other Street Requirements. Development on Dead End Streets §1-16-236 (K):**

(K) Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission (or county staff) in accordance with this division, the Design Manual, and the following provisions, as applicable:

(1) For proposed development on new or existing cul-de-sac or dead end street(s), except existing dead end streets described in subsection (2) below, the following requirements apply:

(a) Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible.

(b) In the AG and R-1 zoning district, cul-de-sac or dead end street(s) shall not exceed 1,800 feet in length and shall not serve more than 30 lots, dwelling units, or parcels...

Iris Court is an existing 130 foot long +/- cul-de-sac street that currently serves 5 lots. This proposed subdivision meets the Subdivision Regulations requirements for subdividing on an existing dead-end



# Combined Preliminary/Final Plat

DEPOTABLE TO THE COUNTY

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OR IMPERVIOUS SURFACES  
DRAINING OVER 5,000 SQUARE  
FEET IN 1-19-2,400 OF THE

90' EX 16' PAVED DRIVEWAY

100' EX 14' PAVED DRIVEWAY

EX 12' PAVED DRIVEWAY

LOT 1-C

LOT 1-G

LOT 1-F

LOT 1-E

LOT 1-D

LOT 1-B

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**6. Lot Size and Shape. Panhandle Lots §1-16-219 (C)(2):** Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that “excellence of design” will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine “excellence of design” based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.

Proposed Lot 1C will access Iris Court via a 10 foot wide panhandle. This panhandle is being created by splitting the existing 20 foot wide panhandle that currently serves Lot 1G. An existing 16 foot wide common driveway currently serves Lots 1E, 1F, and 1G, and will also serve the proposed Lot 1C. Notes on the plan state that the lot owners are responsible for maintenance of the common driveway. Staff does not object to the use of the panhandle design since the existing 20 foot wide panhandle and existing common driveway is being utilized.

In order for Planning Commission to approve these panhandle lots, it must find that the lots meet “excellence of design based on the spatial relationship of the panhandle lot to other lots and the public road” **or** “that such lots are inaccessible to the road due to odd shape and/or topographical constraints.”

- 7. Water and Sewer Facilities. Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service (NPS) and must utilize private septic areas and wells. Per §1-16-12 (C)(2), all wells and septic areas must be approved by the Health Department prior to lot recordation.

### **Subdivision Regulation Requirements Findings/Conclusions**

The project will meet all Subdivision Regulation requirements once all agency comments and conditions are complied with and if the Planning Commission finds that the panhandle lot meets the requirements of §1-16-219 (C)(2).

### **C. OTHER APPLICABLE REGULATIONS**

**Stormwater Management – Chapter 1-15.2:** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. SWM review for this large, single family lot will occur at the time of building permit application.

**APFO – Chapter 1-20:** This subdivision is subject to meeting APFO requirements for schools and roads.

The following areas are addressed in the APFO Letter of Understanding (LOU) to be signed by the Applicant and the Planning Commission as a condition of approval of this preliminary plan. See attached Exhibit #2.

1. **Schools:** Attendance Areas: Green Valley ES, Windsor Knolls MS, Linganore HS. The Project is projected to generate 1 elementary school student, 1 middle school student, and 1 high school student. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the middle and high school levels. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. The School Construction Fees shall be paid at plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.
2. **Roads:** The Project will generate 1 am and 1 pm weekday peak hour trip, which does not meet the requisite 5 peak hour trip threshold required for escrow account contributions and is therefore exempt from APFO-Roads requirements.
3. **Public Water & Sewer:** Not applicable. Public water and sewer do not service this site.

**Period of Validity:** The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on November 13, 2016.

**Forest Resource Ordinance – Chapter 1-21:** The Applicant has filed two Declarations of Intent to be exempted from FRO requirements. Lot 1G is exempt from the FRO with a Real Estate Transfer exemption because the lot is already developed with a house, well, and septic and no new development is proposed. Lot 1C is being exempt under the Intrafamily Transfer exemption, the lot being created for the purpose of constructing a dwelling for the owner or child of the owner.

Summary of Agency Comments

**Weller Estates, Lots 1C and 1G**

November 13, 2013

Page 6 of 7

<b><i>Other Agency or Ordinance Requirements</i></b>	<b><i>Comment</i></b>
<b><i>Development Review Engineering (DRE):</i></b>	Approved
<b><i>Development Review Planning:</i></b>	Hold. Must meet all agency and FcPc comments and conditions.
<b><i>State Highway Administration (SHA):</i></b>	N/A
<b><i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i></b>	N/A
<b><i>Health Dept.</i></b>	Hold. Lot 1C well must be drilled and perc tested. Existing septic on Lot 1G must be inspected.
<b><i>Office of Life Safety</i></b>	N/A
<b><i>DPDR Traffic Engineering</i></b>	Approved
<b><i>Historic Preservation</i></b>	N/A

## **RECOMMENDATION**

Staff has no objection to conditional approval of the Combined Preliminary/Final Plat.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements. Should the FcPc grant approval of this application (S-250B, AP 2982), including approval of the APFO (AP 12804) and approval of the use of panhandle lot design in a major subdivision, Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. The Combined Preliminary/Final Plat and APFO approval are valid for three (3) years from the date of FcPc approval. Therefore, the Plat and APFO approval expires on November 13, 2016.

## **PLANNING COMMISSION ACTION**

### **MOTION TO APPROVE**

I move that the Planning Commission **APPROVE S-250B (AP 2982) with conditions** as listed in the staff report for the proposed preliminary plan, approval of the APFO (AP 12804), and the modification in accordance with §1-16-219 (C)(2) to permit a panhandle lot in a major subdivision, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.